

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5623 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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K K NANAVATI ENGINEERING AND MANUFACTURING CO. (P) LTD

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

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Appearance:

NANAVATI ASSOCIATES for Petitioners

MR YF MEHTA for Respondent No. 1

MR MUKESH PATEL AGP FOR for Respondent No. 4

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 11/12/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. Y.F.Mehta, learned advocate appearing for G.I.D.C. and Mr. Mukesh Patel, learned Assistant Government Pleader appearing for respondent N. 4. This petition seeks to challenge the order dated 9th February, 1998 whereby the petitioner company has been called upon by the Gujarat Industrial Development Corporation to make payment of

Rs.3,86,679/- failing which said dues would be recovered as an arrears of land revenue. It is the case of the petitioners that the impugned order as also the eviction orders dated 17th October, 1995, 30th November, 1995 25th June, 1997 and 19th July, 1997 are passed without giving any opportunity of hearing to the petitioners.

2. Mr. Y.F.Mehta, learned advocate appearing for the GIDC has shown to this court and has sought for placing copies of the same on record of this petition the proceedings which are stated to be under the relevant provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1972. On perusal of some of the notices sent to the petitioner, it would appear that the address shown is that of open plot. It would be clear that a reasonable and prudent man cannot be expected to receive notice at such address particularly when the advice of taking over of possession came to be sent at the office address only. On this short point, eviction proceedings appear to have been undertaken with total non-application of mind.

3. It is the case of the petitioners that the representations made by the petitioner company have also remained undecided. These representations including the representation with regard to refund of the amount deposited by the petitioner with the respondent GIDC on the ground that the plot No.802.F at Naroda Phase-IV Industrial Estate was surrendered vide letter dated 18th December, 1993, since the area handed over was 1836.21 sq. mtrs. instead of 1318 sq. mtrs. as allotted, all these facts, can be suitably considered by the competent authority after giving due opportunity of hearing to the petitioners.

4. In the peculiar facts of the case, the impugned orders dated 17th October, 1995, 19th July, 1995 and 9th February, 1998 passed by the concerned officer of the GIDC are set aside and it is hereby directed that the petitioners shall be given an opportunity of hearing by the competent authority before any decision is taken in the aforesaid matter concerning plot no. 802.F at Naroda GIDC Estate. The concerned authority shall also take into consideration the contentions of the petitioners including those with regard to entertaining of refund raised in this petition. In this view of the matter, recovery certificate will also stand quashed. It is made clear that no opinion is expressed on merits of the matter. Rule is made absolute in aforesaid terms with no order as to cost.

Dt.11.12.1998. (M.S.Parikh,J.)

Vyas